

## **Minutes - Woodbury County Board of Adjustment Meeting July 6, 2009**

The meeting convened on the 6<sup>th</sup> of July, 2009 at 7 PM in the Board of Supervisors Meeting Room in the Court House, Sioux City, Iowa. Present were the following Board members: David Scholten, Robert Brouillette, Russell Walker, Corey Meister, and Brian Crichton. Zoning Director John Pylelo and Clerk Peggy Napier were also in attendance. Present from the public were William and Cindy Spenner and Kevin Sandine.

*Mr. Walker called the meeting to order at 7 PM.*

**The first agenda item was approval of the May 4<sup>th</sup>, 2009 meeting.**

**Mr. Scholten made a motion to approve the minutes of May 4, 2009 as written. Mr. Brouillette seconded the motion; motion carried 4-0.**

**The second agenda item was a public hearing and consideration of accessory structure setback variance request for William D. and Cynthia M. Spenner; GIS Parcel 8847 17 400 009.**

Current Woodbury County Zoning ordinances require accessory structures to be positioned no closer than 10 feet from rear and side property lines. The Spenners have filed a variance application requesting consideration to place an accessory structure up to within 3' of their parcel's southern property line shared with Kevin and Jody Sandine. The Spenner parcel is addressed 4704 Old Lakeport Rd.; is located on the east side of the roadway and is 100' by 211' in size. The parcel lies adjacent to the corporate limits of the city of Sioux City.

The Spenner parcel is also known as Lot 2 D & K Addition subdivision. The seven foot (7') side yard setback variance is proposed for placement of a 22' by 24' accessory structure in the southeastern corner of their parcel. The property line for which the variance is requested is shared with the driveway portion of the Sandine's flag lot known as Lot 4 of D & K Addition subdivision.

The parcel is zoned AE (Agricultural Estates) and does not lie within a drainage district or a flood hazard area. The structure's intended use is for personal use and storage including storage of equipment used to maintain the parcel. Access to the structure would be from the rear yard and the Sandine drive. Should the variance be approved consideration of an access/egress easement agreement from the Sandines to Spenners should be considered as a condition of such approval.

### **Date of Events:**

<b>October 28, 1998</b>	Spenners purchase parcel from River City Homes.
<b>Prior to August 1, 2008</b>	Spenners complete earthwork and retaining walls for accessory structure's placement.
<b>August 1, 2008</b>	Woodbury County's new zoning ordinances are effective.
<b>May, 2009</b>	Spenners attempt to file permit application for structure and learn of change in setback distance requirements.

The four (4) adjacent property owners to the parcel have been notified in writing of this public hearing. To date no comments have been received.

Attached are mapping, aerials, site photos and site plan information relative to this application. Note the Spenners will be purchasing sufficient property to the east from the Sandines to meet the structure's 10' rear set back requirement. Attached is written correspondence from Kevin Sandine dated June 23, 2009 and an email from David Lane Sr., Right of Way Agent with MidAmerican Energy Company, as it relates to the utility easement at or near the Spenner's southern property line.

No known covenants exist for the D & K Addition subdivision; a 4 Lot subdivision approved in 1996.

The applicant is required show that without the variance an economic hardship will be suffered. Such determination is to be based upon each of the following:

- The property cannot yield a reasonable return;
- The property has unique physical constraints and the inability to be compliant;
- The hardship is not the result of actions by the owner.

Mrs. Spenner reiterated the history and commented on letters received from Mr. Sandine and MidAmerican Energy and the intent to purchase land from Sandine.

Mr. Crichton asked how much land would she need to purchase.

Mrs. Spenner said they would be purchasing 7.21' of the entire width of lot to bring it up to 218 square feet.

Mr. Pylelo stated the first requirement is the access/egress easement be properly recorded by their attorney.

Mr. Scholten asked where the electrical box will be.

Mrs. Spenner said MidAmerican Energy is working with them (Spenners) on location and access to the electrical box. She assured the Board they will sign an easement that will be effective currently and for future owners. Spenner will have the easement drawn up to allow for all pertinent issues; i.e. how much access the easement will allow.

Mr. Brouillette asked if the abstract would have to be updated to include the new resolution.

Mr. Pylelo explained updating the abstract depended on the usage of the accessory structure but did not appear necessary in this situation.

Mr. Sandine said he had no problem with the purchase or proposed accessory structure.

**Mr. Crichton made a motion to close the public hearing. Mr. Meister seconded the motion; motion carried 4-0.**

Discussion:

A short discussion ensued regarding minor undisputed issues.

**Mr. Brouillette made a motion to approve the setback variance subject to one condition:**

- **That an access/egress easement be negotiated and properly recorded between the applicant and owner(s) of Lot 4 of D & K Addition subdivision to allow legal access and egress to and from the referred to accessory structure and Old Lakeport Road roadway right-of-way.**

**Mr. Scholten seconded the motion; motion carried 4-0.**

**The next item was any Citizen wishing to be heard by the Board.**

There were not citizens wishing to be heard by the Board.

**Mr. Crichton made a motion to adjourn; seconded by Mr. Scholten. Motion carried 4-0. Meeting adjourned 7:30 PM.**

The next meeting is scheduled to be Monday, August 3, 2009 at **6:00 PM** pending agenda items